

CIVIL • CRIMINAL • IMMIGRATION

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Friday, May 26, 2023

Office of the Principal Legal Advisor
District Court Litigation Division
500 12th Street, SW, Mailstop 5900
Washington, DC 20536

via email to OPLA-DCLD-TortClaims@ice.dhs.gov
and via USPS Priority Mail No. 9405503699300552160930

RE: Claimant: GUERRA VAZQUEZ, Jorge Antonio; A# 098-102-097
Submission of SF-95 Claim Seeking Compensation for Personal Injury

Dear Sir or Madam:

I represent Mr. Jorge Antonio Guerra Quezada, who hereby presents a Form SF-95, through which he seeks compensation for injuries stemming from the United States Government's failure to recognize him as a U.S. Citizen.

Please note that Mr. Guerra has already filed a Form N-600, Application for Certificate of Citizenship, which has now been pending with U.S. Citizenship & Immigration Services ("USCIS") for over 18 months. The purpose of this letter is to inform the Department of the basis of my client's request for compensation based on his claim for damages. The basis of Mr. Guerra's claim is that he acquired citizenship at birth through his U.S. citizen grandfather, Antonio Guerra Rodriguez ("Mr. Guerra Rodriguez"). In turn, Mr. Guerra Rodriguez also acquired citizenship at birth through his natural-born U.S. citizen mother, Cruz Rodriguez Vargas ("Cruz Rodriguez").

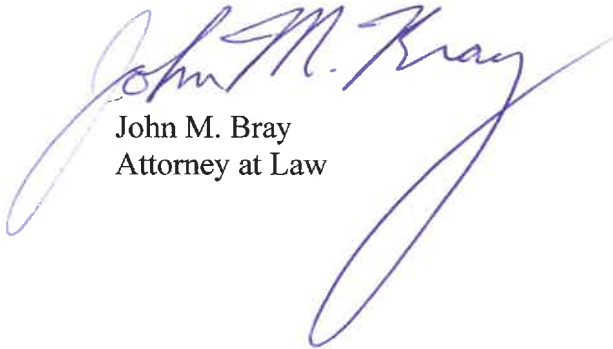
By way of background, Mr. Guerra Rodriguez details under penalty of perjury that his mother, Cruz Rodriguez, struggled for many years to get the U.S. government to recognize that she was born in Kansas in 1924 even though the government had previously acknowledged, since at least 1940, that her three brothers were natural-born citizens. *See* Exs. D-E; *see also Matter of S*, 8 I&N Dec. 221, 221 (BIA 1958) (discussing physical presence requirements to state "[w]here such a person was incorrectly informed by an American consular officer . . . that she had lost her United States citizenship, and in reliance upon such information and without any lack of diligence on her part did not apply for and receive a United States passport until after her twenty-third birthday . . . she is entitled to admission as a United States citizen.");

Please note, Mr. Guerra Rodriguez does not need a certificate of citizenship or formal declaration by a U.S. government official to prove he is a U.S. citizen because "his right to be treated as a citizen is not dependent upon the award of a certificate. He was a citizen from the moment of his birth." *See United States v. Smith-Baltiher*, 424 F.3d 913, 920-21 (9th Cir. 2005) (holding pertinent statute provides for citizenship at birth) (citing *Miller v. Albright*, 523 U.S. 420, 429-30 (1998)). Thus, Mr. Guerra's claim to U.S. citizenship is viable even though no formal determination has been rendered concerning whether Mr. Guerra Rodriguez acquired or derived U.S. citizenship at birth from his mother, Cruz Rodriguez. Nevertheless, Mr. Guerra has sought a certificate of citizenship from USCIS, due to his personal history and circumstances.



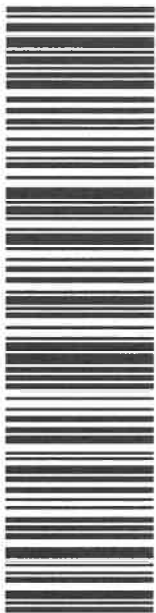

For these reasons, and considering the urgency of this matter and the stakes involved, I hereby give notice that *I will be filing suit in federal district court in Washington, D.C., if we have not received a satisfactory response within the next ten (10) business days from today.* I will also seek a mandamus and/or injunction from the United States District Court, any and all applicable damages under the Federal Tort Claims Act and other relevant statutes, attorney's fees under the Equal Access to Justice Act where applicable, and if appropriate, I will depose every employee who was materially involved in the administrative and judicial processes that led to Mr. Guerra's injuries.

Accordingly, I respectfully request that you please take immediate action on my client's SF-95 claim. In advance, I thank you for your prompt attention to this matter, and I anxiously await your decision. As always, I remain

Sincerely,

A handwritten signature in blue ink, reading "John M. Bray". The signature is fluid and cursive, with a large loop at the end of the last name.

John M. Bray
Attorney at Law

 UNITED STATES POSTAL SERVICE® Click-N-Ship®		P USPS.com 9405 5036 9930 0552 1609 30 0000 0000 0062 0536 US POSTAGE Flat Rate Env \$9.65 U.S. POSTAGE PAID Click-N-Ship® 05/26/2023 Mailed from 75208 98675625857516
PRIORITY MAIL® JOHN M BRAY THE LAW OFFICE OF JOHN M. BRAY, PLLC 911 N BISHOP AVE DALLAS TX 75208-4221 Expected Delivery Date: 05/30/23 Ref#: Matter1182 0000		 OFFICE OF PRINCIPAL LEGAL ADVISOR STOP 5900 500 12TH ST SW WASHINGTON DC 20536-5900
USPS TRACKING #  9405 5036 9930 0552 1609 30		C000
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Trans. #: 589095176 Print Date: 05/26/2023 Ship Date: 05/26/2023 Expected Delivery Date: 05/30/2023	Priority Mail® Postage: \$9.65 Total: \$9.65
From: JOHN M BRAY THE LAW OFFICE OF JOHN M. BRAY, PLLC 911 N BISHOP AVE DALLAS TX 75208-4221 Ref#: Matter1182	
To: OFFICE OF PRINCIPAL LEGAL ADVISOR STOP 5900 500 12TH ST SW WASHINGTON DC 20536-5900	
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Plaintiff's Exhibit "O"

USPS Tracking®

[FAQs >](#)

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May 31, 2023, 11:47 am

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May 31, 2023, 10:40 am

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WASHINGTON, DC 20018

May 31, 2023, 10:13 am

Arrived at USPS Regional Facility

WASHINGTON DC DISTRIBUTION CENTER

May 31, 2023, 6:52 am

Arrived at USPS Regional Facility

LINTHICUM HEIGHTS MD DISTRIBUTION CENTER

May 31, 2023, 6:51 am

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Plaintiff's Exhibit "Q"

WASHINGTON DC DISTRIBUTION CENTER

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May 31, 2023, 1:45 am

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SOUTHERN MD DISTRIBUTION CENTER ANNEX

May 31, 2023, 12:16 am

Arrived at USPS Regional Destination Facility

SOUTHERN MD DISTRIBUTION CENTER ANNEX

May 30, 2023, 7:37 pm

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WASHINGTON, DC 20017

May 30, 2023, 10:19 am

In Transit to Next Facility

May 29, 2023

Arrived at USPS Regional Origin Facility

COPPELL TX DISTRIBUTION CENTER

May 27, 2023, 7:55 pm

Accepted at USPS Origin Facility

DALLAS, TX 75208

May 27, 2023, 6:40 pm

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May 27, 2023

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Product Information**Plaintiff's Exhibit "Q"**

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Track Another Package

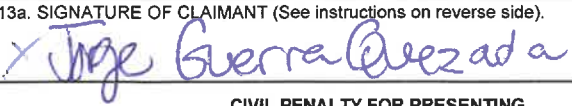
Enter tracking or barcode numbers

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[FAQs](#)

Plaintiff's Exhibit "O"

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Office of the Principal Legal Advisor District Court Litigation Division 500 12th Street, SW, Mailstop 5900 Washington, DC 20536			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. Jorge Antonio Guerra Quezada c/o The Law Office of John M. Bray, PLLC. 911 N. Bishop Ave. Dallas, TX 75208		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN		4. DATE OF BIRTH 02/15/1993	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT Multiple	
7. TIME (A.M. OR P.M.)					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Mr. Guerra, Claimant herein, automatically acquired U.S. citizenship on February 23, 2005 under the Child Citizenship Act of 2001, INA § 320(a). Accordingly, Mr. Guerra was wrongfully detained by the U.S. Department of Homeland Security in June 2021 and forced to seek relief from removal in immigration custody at the Prairieland Detention Center in Alvarado, Texas. On September 15, 2021, Immigration Judge Shelly W. Schools wrongfully issued a removal order against Mr. Guerra. See Addendum.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). n/a					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). n/a					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Despite being a U.S. Citizen, Claimant was wrongfully detained by DHS and eventually removed (deported) to Mexico following his removal proceedings, until he was finally paroled into the United States on or about 12/14/2021.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
Jorge Guerra Vazquez		(817) 274-7623; 1710 Wynn Terrace, Arlington, Texas 76010			
Jesus A. Guerra Quezada		(682) 307-0461; 1710 Wynn Terrace, Arlington, Texas 76010			
Jim Rodden		James.Rodden@ice.dhs.gov; 125 E. John Carpenter Fwy, Irving, Texas 75062			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY		12c. WRONGFUL DEATH	
0.00		1,744,000		0.00	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights). 1,744,000	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). 			13b. PHONE NUMBER OF PERSON SIGNING FORM 855-566-2729		14. DATE OF SIGNATURE 05/26/2023
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS		
The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

n/a

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No 17. If deductible, state amount.

n/a

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

n/a

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

n/a

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

- (a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.
- (b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.
- (c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.
- (d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

- A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
- C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

Addendum to Form SF-95, Claim for Damage, Injury, or Death

Mr. Guerra, Claimant herein, automatically acquired U.S. citizenship on February 23, 2005, under the Child Citizenship Act of 2000, INA § 320(a). Consequently, Mr. Guerra was wrongfully detained by the U.S. Department of Homeland Security on June 11, 2021 and forced to seek relief from removal while in immigration custody. Mr. Guerra was detained at the Prairieland Detention Center in Alvarado, Texas for approximately three (3) months.

On September 15, 2021, Immigration Judge Shelly W. Schools, sitting at the Fort Worth Adjudication Center in Fort Worth, Texas, wrongfully issued a removal order against Mr. Guerra. Mr. Guerra maintained his citizenship claim under the CCA, INA § 320(a) during the pendency of his removal proceedings before the U.S. Executive Office for Immigration Review and the U.S. Department of Justice. Thereafter, Mr. Guerra was forcibly removed to Mexico, where he lived from September 2021 to December 14, 2021.

On December 14, 2021, the U.S. Customs and Border Protection inspected and admitted Mr. Guerra into the United States as a U.S. citizen at the port of entry in Brownsville, Texas. In an apparent attempt to thwart the instant action, the U.S. Citizenship and Immigration Services Director of the Dallas Field Office. Consequently, Mr. Guerra was either detained or prevented from living in the United States for 186 days.

In an apparent attempt to thwart the instant action, the U.S. Citizenship and Immigration Services Director of the Dallas Field Office, Wilhelm Fredrich Bierman, wrongfully issued a notice to Mr. Guerra's father, Jorge Guerra Vazquez, notifying him that USCIS would be cancelling the Certificate of Citizenship that he had been issued on December 2, 2021. The time of USCIS's illegal rescission of the Certificate of Citizenship is highly suspicious, just eight (8) days after U.S. Customs and Border Protection agents permitted Mr. Guerra to re-enter the United States as a likely U.S. Citizen.

Therefore, Mr. Guerra Quezada, Claimant herein, seeks \$744,000 in damages for the injuries he suffered as a result of his arrest by immigration officials, lengthy detention during his removal proceedings, and his unlawful removal to Mexico on or about October 22, 2021 until he was permitted to re-enter the United States on December 14, 2021, as well as damages for the mental anguish that he naturally and foreseeably suffered as a result of the indignity for having to live life as a deported alien in the United States, despite alerting immigration officials, including the immigration judge, to his claim to U.S. Citizenship.

Applicant/Claimant: Jorge Guerra Quezada (A#098-102-097)
U.S. Citizen Father: Jorge Guerra Vazquez (A#042-326-594)
U.S. Citizen Grandfather: Antonio Guerra Rodríguez (A#042-326-592)

INDEX OF SUPPORTING EVIDENCE FOR N-600 APPLICATION

<u>Exhibit</u>	<u>Description</u>
A	Proof of U.S. Citizenship for Cruz Rodriguez Vargas <ul style="list-style-type: none">• U.S. Citizen Identification Card• U.S. Certificate of Death• Social Security Card• Texas Identification Card• Medicare Health Insurance Card
B	Biographical, Identification, and Civil Documents for Antonio Guerra Rodríguez, Applicant's U.S. Citizen Grandfather <ul style="list-style-type: none">• U.S. Passport biographical page• Birth certificate with certified translation• Marriage certificate with certified translation
C	Biographical and Identification Documents for Applicant <ul style="list-style-type: none">• Birth certificate with certified translation
D	Proof of Family Ties to United States <ul style="list-style-type: none">• World War I Registration Card for Teodoro Rodriguez• World War II Registration Card for Victoriano Rodriguez• World War II Registration Card for Ralph Rodriguez• Manifest of Gabriel Rodriguez• Burial Information for Eluteria Vargas
E	Evidence of Constructive Physical Presence <ul style="list-style-type: none">• Affidavit of Antonio Guerra Rodríguez with certified translation• Form SS-5, Application for Social Security and Tax Account Number, showing that the Guerra family lived in Weslaco, Texas on March 25, 1964
F	Evidence of Due Diligence by Cruz Rodríguez and Antonio Guerra Rodríguez <ul style="list-style-type: none">• Approved I-130 petition that Cruz Rodriguez filed for her children approximately seven (7) days after receiving her U.S. Citizen Identification Card• Immigrant Visa and Alien Registration application• LPR card of Antonio Guerra Rodríguez• LPR card of Paula Vázquez de Guerra• I-130 Approval Notice that Antonio Guerra Rodriguez filed on behalf of Applicant on January 30, 1996• Certificate of Naturalization of Antonio Guerra Rodriguez

Applicant/Claimant: Jorge Guerra Quezada (A#098-102-097)
U.S. Citizen Father: Jorge Guerra Vazquez (A#042-326-594)
U.S. Citizen Grandfather: Antonio Guerra Rodríguez (A#042-326-592)

- G Evidence that Applicant's Father, Jorge Guerra Vazquez, Obtained N-600 On Same Legal Basis Asserted By Applicant/Claimant**
- Certificate of Citizenship
 - Birth certificate with certified translation
- H Oppressive U.S. Laws That Stripped Natural-Born U.S. Citizen Women, Like Cruz Rodriguez, Of Their Citizenship For Marrying Foreigners**
- NPR Article, *That Time American Women Lost Their Citizenship Because They Married Foreigners* (Mar. 17, 2017), <https://www.npr.org/sections/codeswitch/2017/03/17/520517665/that-time-american-women-lost-their-citizenship-because-they-married-foreigners>
- I Applicable Caselaw**
- *Matter of L-B-D-*, 4 I&N Dec. 639 (1952)
 - *Matter of S*, 8 I&N Dec. 221 (BIA 1958)
 - *Matter of Yanez-Carrillo*, 10 I&N Dec. 366 (BIA 1963)
 - *Matter of Farley*, 11 I&N Dec. 51 (BIA 1965)
 - *Matter of Navarrete*, 12 I&N Dec. 138 (BIA 1967)
- J Proof of Good Faith Effort to Obtain Records**
- FOIA Appeal Letter from USCIS for Cruz Rodriguez Vargas
 - FOIA Letter from USCIS for Antonio Guerra Rodríguez
- K Immigration Documentation of Jorge Guerra Quezada**
- Order of Removal, dated 09/15/2021
 - Receipt Notice for Applicant's Form N-600
 - Order of Judge Schools Denying Motion to Terminate
 - Motion to Terminate Removal Proceedings
 - Notice to Appear, dated 06/11/2021
 - Evidence Applicant Was Admitted as LPR Before Turning 18 Years Old